



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding ANSTEL HOLDINGS LTD.
GAMMON INTERNATIONAL REAL ESTATE CORP.
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes cnc, opc, mnd, mnsd, ff

Introduction

The tenant applies for resolution of a dispute in the tenancy at the above noted address, and requests an order to cancel a Notice to End Tenancy, which alleges among other things that:

- the tenant or a person permitted on the residential property has significantly interfered with or unreasonably disturbed another occupant or the landlord;
- the tenant has caused extraordinary damage to the unit or property.

The landlord applies for an Order of Possession, and a Monetary Order related to damage caused to the premises.

Issue(s) to be decided

Should the Notice to End Tenancy be cancelled, or has the landlord established grounds to end this tenancy?

Is the tenant liable for damage to the premises?

Background and Evidence

This tenancy began March 1, 2013. The monthly rent is \$625.00, due on the 1st day of each month. A one month Notice to End Tenancy was given to the tenant on February 24, 2015, to end this tenancy effective March 31, 2015. The tenant received the Notice of March 1, 2015.

The tenant allowed a female guest into his premises, who in turn allowed another male guest into the premises. A disturbance ensued. The tenant advised both the female guest and the male guest they were no longer welcome in his home, and told them to leave. The male guest returned demanding to be allowed back into the premises. When not allowed in, he proceeded to smash windows in the entrance, resulting in expense to the landlord of \$3,382.19. The police were called by another tenant who was bothered by the disruption.

Analysis

The initial disturbance can be attributable to the tenant, as it was his female guest that invited the male guest into the premises, and the tenant is liable for all invitees to the premises. However, I find that both guests were told to leave and that they were no longer welcome. At that point their presence was no longer as invitees of the tenant.

The damages to the windows occurred after the guests were no longer invitees. The tenant is not liable for this conduct of the male, as he had clarified that the male was not welcome in his home prior to the incident. The landlord may have a claim for the damage as against the male person involved, but the claim as against the tenant is dismissed.

While there was a disturbance when both guests were in the premises, it has not been established that this disturbance was of a severity that warrants eviction. It was the subsequent conduct by the male that was the significant disturbance, but the tenant is not liable for that disturbance. I find that the landlord has failed to prove sufficient cause to warrant the ending of this tenancy. The initial disturbance has not been proven to have reached a magnitude that it unreasonably disturbed the landlord, and there is no testimony by any other occupant as having been disturbed unreasonably.

The onus of proof to end a tenancy lies with the landlord, and in this case the landlord has failed to meet that burden of proof. The notice is therefore ordered cancelled.

Conclusion

The subject Notice to End Tenancy is cancelled. The tenancy continues. The landlord's claim is dismissed in full.

This decision is made on authority delegated to me by the Director of the Residential Tenancy Branch under Section 9.1(1) of the *Residential Tenancy Act*.

Dated: April 11, 2015

Residential Tenancy Branch

